

J. MICHAEL KALER, SBN 158296
KALER LAW OFFICES
9930 Mesa Rim Road, Suite 200
San Diego, California 92121
Telephone (858) 362-3151
Email: michael@kalerlaw.com

MELODY A. KRAMER, SBN 169984
KRAMER LAW OFFICE
9930 Mesa Rim Road, Suite 1600
San Diego, California 92121
Telephone (858) 362-3150

Attorneys for Plaintiff JENS ERIK SORENSEN,
as Trustee of SORENSEN RESEARCH AND
DEVELOPMENT TRUST

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JENS ERIK SORENSEN, as Trustee of	) Case No. C08-00095 JW
SORENSEN RESEARCH AND)
DEVELOPMENT TRUST,	) NOTICE OF MOTION AND
	) PLAINTIFF'S MOTION FOR
Plaintiff	) APPLICATION OF 35 U.S.C. § 295
v.	) PRESUMPTION OF
	) INFRINGEMENT
LEXAR MEDIA, INC., a Delaware)
corporation; and DOES 1 – 100,	) Date: June 9, 2008
	) Time: 9:00 A.M.
Defendants.	) Courtroom 8, 4 th Floor
	) Judge: The Hon. James Ware
)
and related counterclaims.	) <i>Oral Argument is Respectfully Requested</i>
	) <i>at Hearing on This Matter.</i>
)
)

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD

2 PLEASE TAKE NOTICE that on June 9, 2008, at 9:00 A.M. or as soon
3 thereafter as this matter may be heard before the Honorable James Ware,
4 PLAINTIFF Jens Erik Sorensen, as trustee of Sorensen Research & Development
5 Trust, will move and hereby does move this Court for an order pursuant to 35 U.S.C.
6 § 295 to invoke the presumption of infringement as to the Accused Products.

7 This motion is made on the grounds that: (1) The products accused of
8 infringement is substantially likely to have been manufactured through use of the
9 '184 patented process; (2) Plaintiff has made reasonable, but unsuccessful, efforts to
10 obtain the process actually used to manufacture the products, but have been unable to
11 do so; and (3) Additional, reliable evidence of the process utilized will not become
12 available in litigation because the manufacturing is in China, beyond the reach of
13 U.S. discovery laws and enforcement.

14 This motion is based on this notice of motion, the supporting Memorandum of
15 Points and Authorities; the declarations of Paul Brown, Melody A. Kramer, and
16 Edward Truitt filed in support thereof filed concurrently herewith; the pleadings and
17 other files and records in each of these actions, and upon such other written or oral
18 argument as may be presented to the court.

19
20 Dated this Friday, April 11, 2008.

21
22 Respectfully submitted,

23
24 JENS ERIK SORENSEN, as Trustee of SORENSEN
25 RESEARCH AND DEVELOPMENT TRUST,
Plaintiff

26 /s/ J. Michael Kaler

27 J. Michael Kaler
28 Melody A. Kramer
Attorneys for Plaintiff

PROOF OF SERVICE

I, J. Michael Kaler, declare: I am and was at the time of this service working within in the County of San Diego, California. I am over the age of 18 year and not a party to the within action. My business address is the Kaler Law Offices, 9930 Mesa Rim Road, Suite 200, San Diego, California, 92121.

On Friday, April 11, 2008 I served the following documents:

NOTICE OF MOTION AND PLAINTIFF'S MOTION FOR APPLICATION OF 35 U.S.C. § 295
PRESUMPTION OF INFRINGEMENT

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S
MOTION FOR APPLICATION OF 35 U.S.C. § 295 PRESUMPTION OF INFRINGEMENT

DECLARATION OF PAUL BROWN IN SUPPORT OF PLAINTIFF'S MOTION FOR
APPLICATION OF 35 U.S.C. § 295 PRESUMPTION OF INFRINGEMENT

DECLARATION OF MELODY A. KRAMER IN SUPPORT OF PLAINTIFF'S MOTION FOR
APPLICATION OF 35 U.S.C. § 295 PRESUMPTION OF INFRINGEMENT

DECLARATION OF EDWARD TRUITT BROWN IN SUPPORT OF PLAINTIFF'S MOTION
FOR APPLICATION OF 35 U.S.C. § 295 PRESUMPTION OF INFRINGEMENT

PLAINTIFF'S REQUEST FOR ORAL ARGUMENTS ON PLAINTIFF'S MOTION FOR
APPLICATION OF 35 U.S.C. § 295 PRESUMPTION OF INFRINGEMENT

PERSON(S) SERVED	PARTY(IES) SERVED	METHOD OF SERVICE
Jared Bobrow jared.bobrow@weil.com Weil, Gotshal & Manges LLP 201 Redwood Shores Parkway Redwood Shores, CA 94065	Lexar Media, Inc.	Email--Pleadings Filed with the Court via CM/ECF

☐ (Personal Service) I caused to be personally served in a sealed envelope hand-delivered to the office of counsel during regular business hours.

☐ (Federal Express) I deposited or caused to be deposited today with Federal Express in a sealed envelope containing a true copy of the foregoing documents with fees fully prepaid addressed to the above noted addressee for overnight delivery.

1 ☐ (Facsimile) I caused a true copy of the foregoing documents to be transmitted by
2 facsimile machine to the above noted addressees. The facsimile transmissions were
3 reported as complete and without error.

4 ☐ (Email) I emailed a true copy of the foregoing documents to an email address
5 represented to be the correct email address for the above noted addressee.

6 ☒ (Email--Pleadings Filed with the Court) Pursuant to Local Rules, I electronically filed
7 this document via the CM/ECF system for the United States District Court for the
8 Southern District of California.

9 ☐ (U.S. Mail) I mailed a true copy of the foregoing documents to a mail address
10 represented to be the correct mail address for the above noted addressee.

11 I declare that the foregoing is true and correct, and that this declaration was executed on Friday,
12 April 11, 2008, in San Diego, California.

13 /s./ J. Michael Kaler

14 J. Michael Kaler